IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

Criminal Appeal No. 969-SB of 2003

Date of Decision: 15.11.2006.

Swaran Ram Nanglu .....Appellant

versus

State of Punjab .....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.AGGARWAL

Present : Mr. K.S.Ahluwalia, Advocate for the appellant
Mr. G.S.Bhandari, DAG Punjab

M.M.AGGARWAL.J.

This is an appeal against judgment dated 6.5.2003 of Special Judge, Nawanshahr, whereby the present accused-appellant was convicted for offence under Section 7 and 13 (2) of the Prevention of Corruption Act, 1988 (for short ' the Act'). For offence under Section 7 of the Act, the accused-appellant was sentenced to undergo rigorous imprisonment for 2½ years and to pay fine of Rs.5000/-. For offence under Section13 (2) of the Act, the appellant was sentenced to undergo rigorous imprisonment for 2½ years and to pay fine of Rs.5000/- and in default of payment of fine to further undergo further rigorous imprisonment for five months.

The present appellant was posted as Treasury Officer at Newanshahr. The FIR was registered on the basis of an affidavit filed by complainant Jagjit Singh that he was resident of village Bairsian, Police Station Sadar Nawanshahr, District Nawanshahr but was

settled in England. He was pensioner of the police department and when he came to India in 1999, then 18 months pension was due. He went to the appellant-accused but accused demanded Rs.10000/-as illegal gratification saying that pension for such a long period could not be released. Then, accused agreed to take Rs.8000/- for himself and Rs.300/- for papers. Thereafter, Rs.8300/- were paid to the accused and then on the next day of that payment, accused got pension bills of Rs.40,000/- passed and accused came to his house and made the payment of those bills.

On this affidavit, an enquiry was held and then case was registered and investigated and then accused-appellant was challaned. He faced trial and was convicted and was sentenced as mentioned earlier.

In this case, Jagjit Singh complainant while appearing as PW2 had stated that he contacted the accused on 1.8.1999 and requested that arrears of pension for 18 months be paid to him and then accused had stated that pension could not be paid in this manner and the bills are to be sent to Jallandhar and then to Chandigarh and some officers are to be pleased by giving them illegal gratification. The appellant-accused had demanded Rs. 10,000/- from him (complainant) for this purpose. That complainant Jagjit Singh withdrew Rs.1,20,000/- on 20.8.1999 from the bank and made payment of Rs.8300/- to the accused in the presence of Amrik Singh PW5 on 21.8.1999. Then two bills were got prepared, sent to his house on the next day and payment was made. Complainant Jagjit Singh further stated that he was not in favour of giving bribe and therefore, he had made complaint. The payment of Rs.8300/- as

alleged by Jagjit Singh was supported by PW5 Amrik Singh.

The accused-appellant in his statement under Section 313 Cr.P.C. had stated that land of Jagjit Singh complainant adjoins the land of Karam Chand who happens to be the father-in-law of his son, in village Bairsian. Jagjit Singh complainant wanted to purchase that land of Karam Chand at lessor price and Karam Chand had discussed the matter with him and he had advised Karam Chand not to sell his land at throw away price and at this, Jagjit Singh complainant felt offended and made this complaint.

Affidavit of Jagjit Singh complainant from which the FIR was recorded is dated 30.11.1999. In this affidavit, he did not give any date of demand and then payment of Rs.8300/- by him but he had stated that it happened 1½ months earlier and when this payment was made, then on the very next day, the bill of Rs.40000/- was got signed from him and payment was made. Jagjit Singh complainant while appearing as PW2 has admitted that Amrik Singh witness is related to him.

It is not the case of Jagjit Singh complainant or the prosecution that accused did not do the work even after receiving the money or illegal gratification. From the statement of complainant Jagjit Singh PW2 and Amrik Singh PW5, it would come out that Jagjit Singh is himself giver of the bribe,if any and is an accomplice. He did not make any complaint to anybody till 30.11.1999 and while making complaint, he had stated that he was not in favour of giving bribe money and therefore, was making the complaint. If Jagjit Singh complainant had paid Rs.8300/- as alleged by him on 21.8.1999 and his work was done, then, there is no explanation as to why he had

come forward with the complaint on 30.11.1999 i.e. after three months. In the circumstances of the case, the explanation as given by the accused in his statement under Section 313 Cr.P.C. has to be relied upon that this complaint was filed due to some other motive as Jagjit Singh wanted to purchase the land of Karam Chand, father-in-law of the son of accused-appellant to which the accused-appellant had objected.

Not much reliance should be placed on the statement of a person like Jagjit Singh complainant who himself allegedly pays money for getting the work done and then as per Jagjit Singh, the work was done and thereafter, he (Jagjit Singh) came forward with a complaint after three months. Amrik Singh PW2 happens to be his relative. If Jagjit Singh complainant did not want to give bribe as alleged by him, then he could easily approach the police or Vigilance department at that time. Jagjit Singh complainant is a retired police official and could very well know that even giving bribe was a crime.

Under these circumstances, I hold that prosecution case as propounded by Jagjit Singh complainant PW2 and Amrik Singh PW5 as against the accused-appellant was totally doubtful and he could not be convicted on the statements of these two persons and accused-appellant is entitled for acquittal.

As such, this appeal is accepted and accused-appellant is acquitted.

Disposed of.

November 15, 2006 **(M.M.Aggarwal)**
'ravinder' **Judge**